

Serial No.: 09/404,940

Attorney Docket No: MCS-023-01

**REMARKS**

In response to the Office Action dated March 12, 2003, claims 1, 4, 5, 9, 19 and 22 have been amended. Claims 2 and 3 have been canceled, and new claims 30 and 31 have been added. Therefore, claims 1 and 4-31 remain in the case. Reexamination and reconsideration of the amended application are requested.

**Allowable Subject Matter**

The Applicant gratefully acknowledges and appreciates the allowance of claims 13-18 and 25-29.

**Claim Objections**

The Office objected to claims 3-5 as being dependent on a rejected base claim. However, the Office Action stated that these claims would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

In response, the Applicant notes that claim 3 has been canceled and independent claim 1 (from which claims 4 and 5 depend) has been amended. As explained below, amended claim 1 is patentable over the prior art.

**Section 102(b) Rejections**

The Office Action rejected claims 1, 2, 6-12 and 19-24 under 35 U.S.C. § 102(b) as being anticipated by Jagielski in a paper entitled, "An Application of Neural Networks to Emulation of Aesthetic Judgments". The Office Action stated that Jagielski discloses each and every element of the Applicant's claimed invention.

In response, the Applicant respectfully traverses these rejections based on the amendments to claims 1, 9, 19 and 22 and the following legal and technical analysis.

In general, the Applicant submits that Jagielski lacks at least one feature of the Applicant's claimed invention. In particular, Jagielski does not disclose, either explicitly

**Official**

6-12-03

Serial No.: 09/404,940

Attorney Docket No: MCS-023-01

or implicitly, the material claimed feature of a generating a recommendation to improve an aesthetic score of an image.

Amended Independent Claim 1

Amended independent claim 1 of the Applicant's claimed invention includes a computer-implemented method including inputting a training set including a plurality of images and a corresponding plurality of aesthetic scores for the images and training a classifier to provide aesthetic scores based on the training set. In addition, the computer-implemented method includes generating an aesthetic score for an image based on the classifier and generating a recommendation to improve the aesthetic score for the image.

In contrast, Jagielski, merely teach a system that takes black-and-white abstract art images and its aesthetic value parameter and inputs them into a neural network (p. 336, left column, 2<sup>nd</sup> paragraph, lines 1-3). The system of Jagielski then classifies the black-and-white abstract art images, displaying aesthetic preferences similar to its teachers (Abstract, lines 5-8). However, nowhere does Jagielski discuss the Applicant's claimed feature of generating a recommendation to improve the aesthetic score for the image. Accordingly, the Applicant respectfully submits that Jagielski lacks this claimed feature of the Applicant's invention.

The Applicant, therefore, respectfully traverses this rejection of amended independent claim 1 because Jagielski does not disclose, either explicitly or implicitly, the material claimed feature of generating a recommendation to improve the aesthetic score for the image. Because of this missing feature, the §102 rejection cannot stand.

Amended Independent Claim 9

Amended independent claim 9 includes a computer-implemented method including inputting an image, generating an aesthetic score for the image by utilizing a classifier previously trained on a training set including a plurality of images and a corresponding plurality of aesthetic scores for the images, and generating a recommendation to improve the aesthetic score.

Official  
6-12-03

Serial No.: 09/404,940

Attorney Docket No: MCS-023-01

In contrast, as noted above, the Applicant respectfully submits that Jagielski lacks the Applicant's claimed feature of generating a recommendation to improve the aesthetic score.

The Applicant, therefore, respectfully traverses this rejection of amended independent claim 9 because Jagielski does not disclose, either explicitly or implicitly, the material claimed feature of generating a recommendation to improve the aesthetic score. Because of this missing feature, the §102 rejection cannot stand.

Amended Independent Claim 19

Amended independent claim 19 includes a machine-readable medium having instructions stored thereon for execution by a processor to perform a method. The method includes inputting a training set including a plurality of images and a corresponding plurality of aesthetic scores for the images and training a classifier to provide aesthetic scores based on the training set. In addition, the method includes inputting an image and utilizing the classifier to generate a corresponding aesthetic score for the image and generating a recommendation to improve the corresponding aesthetic score.

In contrast, as noted above, the Applicant respectfully submits that Jagielski lacks the Applicant's claimed feature of generating a recommendation to improve the corresponding aesthetic score.

The Applicant, therefore, respectfully traverses this rejection of amended independent claim 19 because Jagielski do not disclose, either explicitly or implicitly, the material claimed feature of generating a recommendation to improve the corresponding aesthetic score. Because of this missing feature, the §102 rejection cannot stand.

Amended Independent Claim 22

Amended independent claim 22 includes a machine-readable medium having instructions stored thereon for execution by a processor to perform a method. The method

Official

6-12-03

Serial No.: 09/404,940

Attorney Docket No: MCS-023-01

includes inputting an image, generating an aesthetic score for the image by utilizing a classifier previously trained on a training set including a plurality of images and a corresponding plurality of aesthetic scores for the images, and outputting the image. The method further includes generating and outputting a recommendation as to how to improve the aesthetic score for the image.

In contrast, as noted above, the Applicant respectfully submits that Jagielski lacks the Applicant's claimed feature of generating and outputting a recommendation as to how to improve the aesthetic score for the image.

The Applicant, therefore, respectfully traverses this rejection of amended independent claim 22 because Jagielski does not disclose, either explicitly or implicitly, the material claimed feature of generating and outputting a recommendation as to how to improve the aesthetic score for the image. Because of this missing feature, the §102 rejection cannot stand.

Because the Applicant's claimed invention includes features neither taught, disclosed nor suggested by Jagielski, the Applicant respectfully submits that the rejections of amended independent claims 1, 9, 19 and 22 under 35 U.S.C. § 102(b) as being anticipated by Jagielski has been overcome based on the amendments to claims 1, 9, 19 and 22 and the arguments set forth above and below. Moreover, rejected claims 2 and 6-8 depend from amended independent claim 1, rejected claims 10-12 depend from amended independent claim 9, rejected claims 20 and 21 depend from amended independent claim 19, and rejected claims 23 and 24 depend from independent claim 22 and are therefore also novel over Jagielski (MPEP § 2143.03). The Applicant, therefore, respectfully requests reexamination, reconsideration and withdrawal of the rejection of claims 1, 2, 6-12 and 19-24 under 35 U.S.C. § 102(b) as being anticipated by Jagielski based on the amendments to claims 1, 9, 19 and 22 and the arguments above and below.

Serial No.: 09/404,940

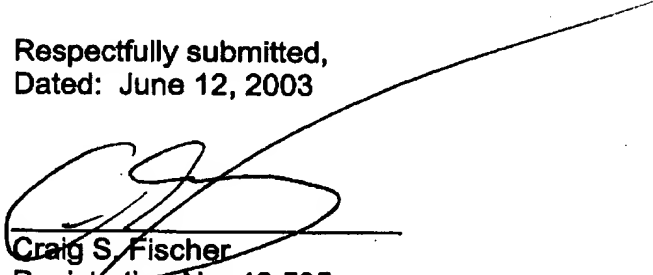
Attorney Docket No: MCS-023-01

Conclusion

In view of the arguments and amendments set forth above, the Applicant submits that claims 1 and 4-29 of the subject application are in immediate condition for allowance. Moreover, new claims 30 and 31 also contain the novel feature described above and also are in immediate condition for allowance. The Examiner, therefore, is respectfully requested to withdraw the outstanding rejections of the claims and to pass this application to issue.

In an effort to expedite and further the prosecution of the subject application, the Applicant kindly invites the Examiner to telephone the Applicant's attorney at (805) 278-8855 if the Examiner has any comments, questions or concerns, wishes to discuss any aspect of the prosecution of this application, or desires any degree of clarification of this response.

Respectfully submitted,  
Dated: June 12, 2003



Craig S. Fischer  
Registration No. 42,535  
Attorney for Applicant

LYON & HARR, L.L.P.  
300 East Esplanade Drive, Suite 800  
Oxnard, CA 93036-1274  
Tel: (805) 278-8855  
Fax: (805) 278-8064

Official

6-12-03